85-676

Supreme Court, U.S.
FILED
AUG 30 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

AUGUST TERM, 1985

No. A-968

DEBBY BOCK,

Petitioner,

v.

THE STATE OF NEW YORK, ROBERT STEINGUT, Chairman, and ILENE J. SLATER, SEYMOUR POSNER and HENRY M. CHRISTMAN, Commissioners, Individually and as Members of the WORKEPS' COMPENSATION BOARD of the State of New York, and the ATTORNEY GENERAL of the State of New York,

Respondents.

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Debby Bock
70 Dahill Road, #1-G
Brooklyn, N.Y. 11218
(718) 854-6268

August 29, 1985

57P

A P P E N D I X *

	Page
Informal opinion and order of the Second Circuit Court of Appeals; filed February 7, 1985 (Ex. A).....	3-6
Petitioner's petition for reconsideration of order dated February 7, 1985; with annexed affidavit; filed February 22, 1985 (Ex. B).....	7-23
Order, without opinion, of the Second Circuit Court of Appeals; filed April 3, 1985 (Ex. C).....	24-25
Petitioner's letter to Chief Judge Feinberg and Circuit Executive Flanders of the Second Circuit Court of Appeals with attached Petitioner's affidavit; filed May 22, 1985, (Ex. D & E).....	26-45
Petitioner's letter to Director Foley of the Administrative Office of the Office of the United States Courts, mailed May 22, 1985 (Ex. F).....	46
Letter to Petitioner dated June 6, 1985 from Elaine B. Goldsmith, Clerk of the Second Circuit Court of Appeals (Ex. G).....	47

*"Appendix" herein is synonymous with "Exhibit" herein.

cont'd

Page

Petitioner's verified complaint pursuant to Second Circuit Court of Appeals Rule § 0.24 addressed to Judge Feinberg of that Court; filed June 12, 1985, (Ex. H)..... 48-54

First page of memorandum and order of Judge Platt; District Court Judge of the Eastern District of New York; filed June 18, 1984.(Ex. I)..... 55-56

NOTE: All exhibits contained herein are exact reprints of the original documents in the Record. They were retyped to conform with instructions of this Court.

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 7th day of February, one thousand nine hundred and eighty-five.

[STAMP]
UNITED STATES COURT OF APPEALS; FILED
FEB. 07, 1985; ELAINE B. GOLDSMITH, CLERK,
SECOND CIRCUIT

Present:

HONORABLE JAMES L. OAKES

HONORABLE RICHARD J. CARDAMONE

HONORABLE LAWRENCE W. PIERCE

Circuit Judges

- -

DEBBY BOOK,

Plaintiff-Appellant,

-against-

ORDER
DOCKET NO.
84-7689

THE STATE OF NEW YORK, ROBERT STEINGUT, Chairman, and ILENE J. SLATER, SEYMOUR POSNER and HENRY M. CHRISTMAN, Commissioners, Individually and as Members of the WORKERS' COMPENSATION BOARD of the State of New York, and the ATTORNEY GENERAL of the State of New York,

Defendants-Appellees.

- -

EXHIBIT A

Debby Bock, pro se, appeals from a decision of the United States District Court for the Eastern District of New York (Platt, J.) dismissing her complaint on the grounds that: (1) the complaint failed to state a claim upon which relief could be found; (2) appellees were immune from suit; and (3) the court lacked subject matter jurisidiction over the complaint.

As a threshold matter, Bock appeals from the district court's decision not to enter a default judgment after an entry of default. Under Fed. R. Civ. P. 55(c), a district court has discretion to "set aside" or vacate the entry of default "[f]or good cause." This requires proof that (1) the default was not willful; (2) a meritorious defense exists; and (3) there is no prejudice to the plaintiff. Meehan v. Snow, 652 F.2d 274, 276-77 (2d Cir. 1981). Appellees did not default, but moved to dismiss the complaint within the time permitted to "plead or otherwise defend." Appellees' affidavit of service attested to service by mail on October 24, 1983, the final day for responding to the complaint under the district court's order of October 4, 1983 and since "Service by mail is complete upon mailing," Fed. R. Civ. P. 5(b), this was a sufficient basis upon which to set aside an entry of default.

Complaints based upon the conspiracy provisions of the Civil Rights Statutes cannot rest on vague or conclusory allegations, but must "allege with at least some degree of particularity overt acts which defendants engaged in which were reasonably related to the promotion of the alleged conspiracy." See Powell v. Workmen's Compensation Board, 327 F.2d 131, 137 (2d Cir. 1964); Koch v. Yunich, 533 F.2d 80, 85 (2d Cir. 1976). Appellant sets forth in her complaint all of the activities, proceedings and actions that she believes proves the existence of a conspiracy between the

Workers' Compensation Board, the New York State courts and the State Attorney General to violate her right to due process. However, her claims amount to no more than conclusory allegations that the Board improperly denied her claim and the courts failed to consider her arguments. No overt act in furtherance of the alleged conspiracy is described. The unsupported accusations do not rise to the level of constitutional significance.

Further, appellant may not proceed against the defendants because State and Federal officials are either absolutely or qualifiedly immune from personal liability in a § 1983 suit for actions taken in their official capacity. See Butz v Economou, 438 U.S. 478, 508 (1978); Imbler v. Pachtman, 424 U.S. 409 (1976). New York's Attorney General is required to defend the decisions of the Board in the State appellate courts. Workers' Compensation Law § 23 (McKinney 1983). Since Bock's complaint against this defendant related to his representation of the Board in litigation before the State Courts, he is absolutely immune from liability. Bock also filed claims against Commissioners Slater, Posner and Christman based on their review of her claims between 1979-1981 and in their official capacity as Board panel members. Absolute immunity has been extended to quasi-judicial officials within an administrative agency when the agency proceedings share "enough of the characteristics of the judicial process that those who participate in such adjudication should be immune from suits for damages" and the official's duties are functionally comparable to those of a judge. See Butz v. Economou, 438 U.S. at 512-13. Such is the case here. Finally, the State of New York is immune from liability based on the Eleventh Amendment, which prevents individual citizens from suing a State under the civil rights act.

Having determined that the defendants are not liable for damages, the only relief remaining is an order directing the Board to order compensation, to remove certain medical reports from her Board file, to stop harassing her and to reimburse her for attorneys fees and expenses.

This relief is actually a request for the Court to review the Board's decision and should properly be made to the Appellate Division, Third Department, pursuant to Workers' Compensation Law § 23. At oral argument it appeared that appellant could return to the State Board and, according to the Board's letter of October 22, 1984, reopen her case upon compliance with the Board's January 9, 1981 decision. Once reopened, a final appealable order could be obtained.

The order of the district court is affirmed.

Signed,

/S/
James L. Oakes, U.S.C.J.

/S/
Richard J. Cardamone, U.S.C.J.

/S/
Lawrence W. Pierce, U.S.C.J.

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

United States Court of Appeals
FOR THE SECOND CIRCUIT

BOOK V. NEW YORK 84-7689
(Docket Number)

NOTICE OF MOTION
Petition for Reconsideration of Order Dated February 7, 1985.

MOTION BY:
DEBBY BOOK
70 Dahill Rd, #1-G
Brooklyn, NY 11218
(718) 854-6268

OPPOSING COUNSEL:
ROBERT ABRAMS, Attorney General of the State of New York.
Two World Trade Center
New York, NY 10047
(212) 488-7816

Has consent of opposing counsel:
A. been sought? Yes X No
B. been obtained? Yes No
Has service been effected? X Yes No
Is oral argument desired? X Yes No
(Substantive motions only)
Request return date: **March 5, 1985**
Has argument date of appeal been set:
A. by scheduling order? Yes No
B. by firm date of argument notice: X Yes No
C. If Yes, enter date: **January 17, 1985**
Judge or agency whose order is being appealed:
U.S. DISTRICT COURT, E.D.N.Y.

Brief statement of the relief requested:
Reconsideration of Order dated February 7, 1985

/S/
by: Debby Book
Appellant Plaintiff

Appearing for: Self
Date: Feb. 21, 1985

(RECEIVED
1985 FEB 22 PM 3:43
COURT OF APPEALS
SECOND CIRCUIT)

Exhibit B

Previous requests for similar relief and disposition:

NONE

Statement of the issue(s) presented by this motion:

Insufficient record submitted by appellees, Court Panel to address the procedural violations of the District Court, and to remind them that the Board decision of January 9, 1981 is a final one, and that they have not carefully examined the record before them, nor have they addressed appellees' contempt of the Order of the New York State Supreme Court and the Order of the District Court.

Brief statement of the facts:

Unable to formulate here.

Summary of the argument:

Relief is sought for the reconsideration of Order
dated February 7, 1985.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
----------Docket No. 84-7689

BOOK V NY

AFFIDAVIT IN SUPPORT OF PETITION FOR RECONSIDERATION OF ORDER DATED FEBRUARY 7, 1985

STATE OF NEW YORK)
: SS.:
COUNTY OF KINGS)

DEBBY BOOK, being duly sworn and deposes and says:

I make this affidavit in support of my petition for reconsideration of this Court's order dated February 7, 1985 containing erroneous information and facts as well as lack of knowledge.

This Court has not carefully read my brief and related papers and relied only on the statements made by appellees' counsel at oral argument and by private communication. This Court has evaded the violative procedural conduct of the District Court as described in my brief as well as evaded the procedural violations in this Court in failing to chronologically docket the submitted documents, in omitting the docketing of certain documents,

and destroying certain submitted documents.

Certain submitted documents to this Court have not been docketed or have not been chronologically filed or have been purposely destroyed which consist of letters important to this case. [FRAP Rule 45(b)].

This Court has docketed appellees' letters directing certain actions to be taken by this Court which were complied with but not processed in the usual manner of this Court.

This Court has violated FRAP Rule 49(a) in accepting appellees' "answer to a petition for rehearing" filed 12/28/84 without first obtaining permission of this Court, allowed it to be accepted in default, and docketed out of order.

This Court has arbitrarily and capriciously allowed appellees' brief to be filed without service of same upon me.

This Court evaded appellees' violation of this Court's Civil Appeals Management Plan 4(b), 7(b) and 8 in arbitrarily granting appellees

extension of time to file their brief without submission of a motion for an extension.

This Court has violated the cardinal rule of conflict of interest by acting as representatives of appellees when this Court mailed to me on behalf of the appellees the latters' brief by certified mail and not docketing this information.

The decision by this Court on the appeal was incompletely rendered as to the questions raised in my brief. This Court cannot make a just decision without all the information, without the Workers Compensation Board ("Board") original file, without the records in the prior courts, and without a trial on the merits as stated in my brief and in my papers heretofore filed.

This Court has evaded the issue that appellees have submitted only a scintilla of the documents filed in the prior proceedings in support of their motion to dismiss my complaint.

This Court makes no mention in its order

that appellees' irregular motion to dismiss the complaint in the District Court first raised the issues of res judicata and collateral review, which were dismissed by that Court and by this Court, and that the issues raised in the first paragraph of this Court's order have no effect after dismissal of the first two issues raised by appellees.

This Court is in error in assuming that the "relief" sought by me "is actually for the court to review the Board's decision." The relief I sought is "actually" for the granting of a judgment by default as stated in my brief on the basis of appellees' contempt of District Court Order dated October 4, 1984 to "answer the pro se plaintiff's summons and complaint" (Rec. Docket #6).

This Court has evaded my arguments respecting actions taken by me to obtain a trial by jury on the merits of my petition in the New York State Supreme Court and of my complaint in the District Court.

This Court has evaded my arguments that the Board, the Attorney General of the State of New York, and the courts of the State of New York have violated their duties as required by the Workers' Compensation Law ("WCL"), the New York State Constitution and the United States Constitution (N.Y.S. Const. Art. 23-A, § 755.)

This Court has evaded my arguments and the fact that the Board's January 9, 1981 decision is a final one (Rec. Ex. 24, p. A-102) and as such I have been denied by the Appellate Division, Third Department ("AD-3rd") my constitutional right under the provision of WCL § 23 to appeal that final decision to which this Court refers in its order filed Feb. 7, 1985.

This Court has and is evading the issue that AD-3rd had granted me the right to appeal the final decision by order dated April 3, 1981 (Rec. Ex. 24, p. A-142) and then by extrinsic fraud and collusion with the Attorney General and the Board reversed their decision by order dated July 8, 1981 to remand my case to the

Board because the Board discovered that it had made constitutional errors and violations in my claim which caused me unnecessary harm and delay.

This Court has evaded the claims "upon which relief could be found" in Rec Ex. 24, at pp. A-143 - A-148, in my petition (Rec. Ex. 1), as well as in my complaint (Rec. Document #1) and in the subsequent papers which I filed in the District Court.

This Court evaded the violative proceedings at the Board which were in excess of jurisdiction and in contravention of almost every WCL from the time of filing my claim in 1977 (Rec. Ex. 1). That a Temporary State Commission on Workers Compensation was formed in 1984 to investigate similar charges (Ex. A herein). However, this investigation was not publicly advertised so that only a few of the claimants came forth to date.

Judge Oakes' preferential treatment of the appellees when he denied my motion for a full 20 minutes to argue my case and allowed me only 10

minutes, as well as when he denied my motion for enlargement of my brief by 15 pages so that I could cover all the points of my appeal, but held up oral argument of my case for 50 minutes because of the late arrival of appellees' counsel, is unjust. Pursuant to Rule § 34(d) of this Court, the presiding judge can "pass on requests for time for argument additional to the 30 minutes generally allowed" (emphasis added). And, pursuant to FRAP Rule 34(e), "[i]f the appellee fails to appear to present argument, the court will hear argument on behalf of the appellant." I was first to appear in Court, out of respect for the Court, inasmuch as my case was first to be called on the calendar. I have no expense account, as does the counsel for appellees, who could have prearranged to come on time by taxi. With my pains and illness, I managed in the heavy snowstorm, with the help of a friend, to take three subway trains to be in Court on time. Even this Court was late to arrive, but could not give me the extra time to

argue, and limited me to two minutes to refute the lies emitted from the counsel for appellees.

This Court has evaded the issue that I petitioned the New York State Supreme Court, N.Y. County in May, 1981 with an Article 78 proceeding against the appellees, and that appellees were denied dismissal of my petition by that Court, and that appellees are in contempt to date of that Court's order of September 18, 1981 to answer my petition. This was all stated in my brief to this Court.

The administrative procedure that determined termination of my compensation at the Board failed to comply with due process. Kelly v. Railroad Retirement Board, 625 F.2d 489 (1980).

The invasion of my rights as stated in all the papers heretofore filed by me in this Court and in the prior courts caused the damages for which I seek to recover. (28 U.S.C. § 41(1)) Bell v. Hood, 327 US 678, 683.

In reply to this Court's statement at page 2 of its order, no "good" cause has been shown for

the District Court to set aside the entry of default. The default was willful in that appellees already knew that the entry of default would be prejudicially set aside by Judge Platt when he permitted them to file their defaulted motion to dismiss the complaint on November 2, 1983 without first removing the entry of default, and when he permitted them to file said motion in contempt of his Court order and in violation of the Federal Rules of Civil Procedure which this Court is evading.

The Distr t Court order of October 4, 1983 extending defendants' time was granted to "answer the pro se plaintiff's summons and complaint." The order did not grant defendants time "to move to dismiss the complaint" as this Court erroneously interjects. In addition, defendants' request for said extension of time was not made by motion, pursuant to FRCP Rule 7(b), but by private correspondence with the Court which is irregular.

No "meritorious defense exists" since

defendants' motion was a ploy to dismiss my complaint so that they could avoid having to answer the allegations of my complaint as they tried to do in the New York State Supreme Court action and failed. Their "meritorious" defense was to raise the issue of res judicata which the District Court and this Court dismissed.

The "prejudice to the plaintiff" was extensive and costly in having to submit opposing documents to the Court to prove my arguments while I was in ill health and required rest under my physician's instructions. This Court also evaded the issue that the District Court Judge in bad faith ordered me to re-serve my complaint upon the defendants without good cause, and denied me a hearing on my motions.

Appellees did not move to dismiss the complaint "within the time permitted" by the District Court order. I proved that at oral argument in said Court by submitting Court Ex. B (Rec. Docket 2/23/84) which was the wrapper showing the date of mailing of appellees' motion

to dismiss on November 10, 1983 and not on October 24, 1983. Appellees showed no proof except to file a fallacious affidavit of service by mail which they have done many times before in the prior proceedings. An "affidavit of service attested to service by mail on October 24, 1983" does not a truth make. That private meter indicia can be changed to read any date chosen, especially when there is no Post Office markings on the meter tape.

The "conspiracy provisions" complained of can be determined by reading the full record of the Board file and of the prior proceedings which defendants have effectively omitted to submit. Also, since this Court has prejudicially denied me permission to file an oversized brief, I could hardly fit into the [illegible] permitted me by the rules of the District Court and the rules of this Court to "allege with at least some degree of particularity overt acts" which defendants-appellees conspiratorially engaged in. This Court's

general sweeping statements on this point are made without having read the full record and without having the full knowledge of this case.

Defendants are not "immune" from liability for their actions when they have violated constitutional laws in excess of their official capacity and jurisdiction. My complaint against the Attorney General is not related to "his representation of the Board" but to his conspiratorial actions.

This Court can only judge whether Commissioners Slater, Posner and Christman, in the proceedings before them, share "enough of the characteristics of the judicial process" or whether they have abused their power in their official duties to function comparable to those of a judge when the defendants answer the allegations of my petition and complaint and when a trial is held on the merits.

The State of New York is not "immune" from liability when it violates my rights under the

United States Constitution.

This Court is obstructing justice for people's right to know what goes on in our judicial system.

Finally, I have, under duress and without explanation, submitted to two impartial specialists examinations decreed by the Board Panel for the purpose of determining the degree of my disability, notwithstanding the other 14 examinations I was decreed to undergo. That the final decision of the Board dated January 9, 1981 is complete with factual lies, omissions of facts and has been rendered in contravention of the Workers Compensation Laws, and by the Board's own WCL § 23 I have a right to appeal it. AD-3rd is protecting the Board Panel and the Board's constitutional errors of law by denying me my right to appeal to that Department as above stated.

Wherefore, I respectfully pray that this Court grant my petition to reconsider its decision of February 7, 1985, and for any and

further relief that this Court may deem just and proper.

/S/
Debby Bock

Sworn to before me this
22nd day of February, 1985

/S/
Phyllis Cianciotta
Notary Public, State of New York
No. 24-4785979
Qualified in Kings County
Commission expires March 30, 1985

(Letterhead with names of members)

TEMPORARY STATE COMMISSION ON
WORKERS' COMPENSATION AND
DISABILITY BENEFITS
100 Broadway - Menands
Albany, New York 12241
(518) 474-6670 (212) 488-3632

MEMORANDUM

TO: New York City Hearing Participants

FROM: Donna Freireich, Executive Director and Counsel

SUBJECT: Public Statement Schedule

DATE: November 27, 1984

You have been scheduled to speak at the Workers' Compensation Hearing on Monday, December 10, 1984, Two World Trade Center, 35th floor, Assembly Room, between 3:30 and 3:40.

Please limit your presentation to ten minutes.

Ex. A

UNITED STATES COURT OF APPEALS
for the
SECOND CIRCUIT

[STAMP]
UNITED STATES COURT OF APPEALS
FILED APR 03, 1985
ELAINE B. GOLDSMITH,
CLERK, SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 3rd day of April one thousand nined hundred and eighty-five.

PRESENT:

HON. JAMES L. OAKES,

HON. RICHARD J. CARDAMONE,

HON. LEONARD W. PIERCE,

Circuit Judges,

DEBBY BOCK,

Plaintiff-Appellant

v. No. 84-7689

THE STATE OF NEW YORK, et al.,

Defendants-Appellees

A petition for a rehearing having been filed herein by plaintiff-appellant, Debby Bock, pro-se,

EXHIBIT C

Upon consideration thereof, it is

Ordered that said petition be and it hereby is DENIED.

/S/
Elaine B. Goldsmith,
Clerk

[STAMP]
RECEIVED
1985 May 22 AM 11:10
U.S. COURT OF APPEALS
SECOND CIRCUIT

70 Dahill Road, 1-G
Brooklyn, NY 11218

May 16, 1985

Hon. Wilfred Feinberg, Chief Judge
U.S. Court of Appeals
and
Hon. Steven Flanders, Circuit Exec.
United States Courts, Judicial Council, 2nd Cir.
U.S. Courthouse
New York, NY 10007

Re: Bock v. New York State et al.
Docket 84-7689

To Whom It May Concern:

This is in furtherance of my complaint for the failure of this Court to process my case in accordance with the Federal Rules of Appellate Procedure, for which I paid the full filing fee.

You both have shown no interest in my prior complaint letters to you or in my attempts to reach you by telephone for an appointment. However, for the record, I am attaching hereto my affidavit documenting the many illegalities and subversive manipulation of the records in my case. These actions have helped to prejudice my appeal in this Court and is an obstruction of

EXHIBIT D

justice.

Very truly yours,

/S/
Debby Bock

DB:nsb
Enc.
Delivery By Hand

bc: Hon. William Foley
Administrative Office of the U.S. Courts
Vermont Ave., N.W.
Wash., D.C. 20544

[STAMP]
RECEIVED
1985 May 22 AM 11:10
U.S. COURT OF APPEALS
SECOND CIRCUIT

APPELLANT'S AFFIDAVIT ENUMERATING VIOLATIONS OF FEDERAL RULES OF APPELLATE PROCEDURE IN PROCESSING HER APPEAL.

STATE OF NEW YORK)
COUNTY OF KINGS) :SS:

DEBBY BOCK, being duly sworn deposes and says:

1. That she is a pro se appellant in the United States Court of Appeals, Second Circuit ("this Court" or "Court"), and has paid the full, exorbitant filing fee of this Court in the sum of $70.00 to process her appeal (Docket No. 84-7689) in accordance with the Federal Rules of Appellate Procedure ("FRAP") Rule 45.

2. That this Court has failed to maintain and process the records in her appeal in accordance with the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure as follows:

A. Unavailability of this Court's record file for examination by appellant on:

(i) December 10, 1984 - For no good reason, the record file was later found to be on the desk of a clerk who had been colluding with appellees.

EXHIBIT E

(ii) January 7, 1985 - Confirmed by the undocketed* letter of Elaine B. Goldsmith, Clerk, adressed to whom it may concern, dated January 7, 1985.

(iii) February 25, 1985 - The record file could not be found between 11:45 a.m. and 3:00 p.m. Elaine B. Goldsmith, Clerk, said it was erroneously sent to the Record Room. Record Room supervisor said that he did not receive it and he had no docket entry in his office as being received from the Clerk's office. Ms. Goldsmith was caught in a lie to cover for her department's negligence or purposeful intent. (See: C-viii, C-x, C-xi below)

When the record file is removed from its spot, the Clerk's department personnel are negligent to sign out its whereabouts resulting in a waste of time (and money) to find the file.

B. Important documents missing or destroyed:

(i) Oct. 30, 1984 - (undocketed) - Appellant's Notice of Appearance filed with her brief.

(ii) Nov. 7, 1984 - (undocketed)- Notice from Elaine B. Goldsmith to appellant respecting service of her brief and appendix.

(iii) Nov. 13, 1984 - (undocketed) - Appellant's original letter proving service of her brief to Ms. McDowell, Clerk, in reply to notice (B-ii above).

---

* "Undocketed" means not entered on the Court's docket sheet as opposed to "docketed" which means entered on the Court's docket sheet.

(iv) Nov. 7, 1984 - (undocketed) - Elaine B. Goldsmith's letter to appellees arbitrarily extending their time to file their defaulted brief without written request therefor.

(v) Dec. 12, 1984 - Private letter from appellees to Clerk of the Court requesting denial of motion for dismissal of their brief which should have been done by affidavit to the Court.

(vi) Jan. 4, 1985 - (docketed) - Original private letter from appellees to Elaine B. Goldsmith, Clerk, with instructions to her to deny appellant's motions. This request should have been submitted by affidavit to the Court and not by private letter to her. The copy of this letter in the file does not indicate the date it was received by the Court and was directed to Judge Oakes and is expressly marked in ink to honor the request of the writer of said letter to deny appellant's motions. Although docketed as of Jan. 4, 1985, the original letter was not in the files on Jan. 7, 1985 for appellant's examination thereof.

(vii) On Jan. 4, 1985 appellant received appellees' defaulted affidavit in opposition (FRAP Rule 27(a)). When appellant went to the Court on Jan. 7, 1985 to file her reply to said affidavit, she asked to examine the record file and the docket sheet for date of service of their affidavit upon her and found no original or copies of same in the file nor was it entered on the docket sheet. However, when docketing appellant's reply on that date, a space was deliberately left open on the sheet for insertion of appellees' affidavit which was not in the Court, as confirmed by letter from the Clerk (A-ii above). (FRAP Rules 40(a) and 45(d))

Appellant believes that after her confrontation with Ms. Goldsmith respecting the absence of appellees' affidavit with the proof of service upon appellant, Ms. Goldsmith contacted appellees who submitted their perjured affidavit receipt of which was pre-dated by the Clerk to appear that it was submitted and filed on Dec. 28, 1984 and entered it on the docket sheet to appear that it was erroneously chronologically entered. Original and copy were still not in record file when appellant examined it on Feb. 22, 1985.

C. Undocketed important documents and notations:

(i) Sept. 6, 1984 - Private letter containing misinformation from appellees to Ms. Valentine, Clerk (fallaciously docketed as an affidavit), and replying to appellant's motion. The fallacious docketing was to protect the fact that appellees should have submitted their reply by affidavit to the Court.

(ii) Oct. 18, 1984 - Private letter from Elaine B. Goldsmith, Clerk, to appellees enclosing a copy of appellant's motion and requesting confirmation of service upon them of same, which has already been served by the appellant upon the appellees on Oct. 17, 1984 and whose receipted stamp was on the original filed with the Court. No copy of Ms. Goldsmith's letter was sent to appellant. This act of protective service is a miscarriage of justice.

(iii) Oct. 23, 1984 - Private letter from appellees to Ms. Goldsmith acknowledging receipt of her letter (C-ii above). No copy of same was sent to appellant.

(iv) Oct. 30, 1984 - Notice of Appearance

filed with appellant's brief.

(v) Nov. 7, 1984 - Private letter from Ms. Goldsmith to appellees arbitrarily extending them time to file their brief, which is already in default of the Scheduling Order filed Oct. 2, 1984, and arbitrarily changing date of argument of the appeal to accommodate the submission of their defaulted brief. No copy of this letter was mailed to appellant.

(vi) Nov. 7, 1984 - Notice to appellant from Ms. Goldsmith respecting appellant's brief and appendix.

(vii) Nov. 13, 1984 - Appellant's reply to C-vi above which was receipted by the Court on Nov. 15, 1984.

(viii) Dec. 11, 1984 - Appellant's letter to Chief Judge Feinberg compalining of the failure of the Clerk's office to properly discharge their duties in processing her appeal, and was required to be submitted and stamped received through the Clerk's office which was done on Dec. 12, 1984. Plaintiff believes that this letter was never delivered to Judge Feinberg.

(ix) Dec. 12, 1984 - Private letter from appellees to the Clerk of this Court (fallaciously docketed as an affidavit) in reply to appellant's motion respecting their defaulted brief, as well as an acknowledgement of their fallacious proof of service of their brief upon appellant which, to date, has not been received by her. This reply should have been made by affidavit to the Court.

(x) Dec. 18, 1984 - Ms. Goldsmith's letter to appellant replying for Judge

Feinberg respecting appellant's complaint to him of Dec. 11, 1984 (C-viii above).

(xi) Dec. 23, 1984 - (Clerk's receipt on Dec. 24, 1984) - Appellant's reply to Ms. Goldsmith's letter of Dec. 18, 1984 (C-x above) with copies to Judge Feinberg (Chief Judge), Judge Oakes (Presiding), and Judge Flanders (Chief Circuit Executive).

(xii) Dec. 23, 1984 - (Clerk's receipt on Dec. 26, 1984) - Appellant's letter to Clerk, attached to her motion for reconsideration, requesting that it be judged by a 3-judge panel.

(xiii) Dec. 26, 1984 - Deliberate ommission on the docket to fully state that the adjournment of oral argument requested in appellant's motion be stayed until a decision has been rendered in her motion for reconsideration which was simultaneously filed in the Court.

(xiv) Dec. 28, 1984 - Ms. Goldsmith's letter to appellant wherein she admits to the deliberate misdirection of copies of appellant's letter of Dec. 23, 1984 (C-xi above) to others than the three stated judges.

(xv) Jan. 2, 1985 - (Clerk's receipt on Jan. 3, 1985) - Apellant's letter to Judges Oakes, Cardamone, Pierce respecting miscarriage of justice by Judge Oakes with copy to appellees.

(xvi) Jan. 2, 1985 - (Clerk's receipt on Jan. 3, 1985) - Appellant's letter to Clerk requesting that attached motion (to excuse Judge Oakes filed Dec. 31, 1984 and grant appellant adjournment of oral argument) be decided by a panel of three judges. This

request was not carried out and was singularly denied and endorsed on the motion by Judge Oakes on Jan. 14, 1985.

(xvii) Jan. 2, 1985 - (Clerk's receipt on Jan. 3, 1985) - Appellant's letter to Clerk requesting that the attached motion (motion to vacate order of Judge Oakes filed Dec. 31, 1984 and to grant appellant adjournment of oral argument) be decided by a panel of three judges.

(xvii(a)) Jan 4, 1985 - This Court mailed to appellant, under certified receipt number P 580 266 848, appellees' defaulted brief.

(xviii) Jan. 7, 1985 - Appellees' affidavit in opposition was not entered on the docket sheet on this date, but a blank space was left open for its entry. (See C--xix below).

(xix) Jan. 7, 1985 - Ms. Goldsmith's letter To Whom It May Concern that appellees' affidavit in opposition, allegedly filed on Dec. 28, 1984, was missing from the file when appellant requested to see it, although, according to her, had already been distributed to the 3-judge panel. This letter was written at appellant's request but Ms. Goldsmith refused to insert that the judges had already received it.

(xx) Jan. 9, 1985 - (Clerk's receipt on Jan. 10, 1985) - Appellant's letter addressed to Judges Feinberg, Flanders, Oakes, Cardamone, and Pierce with copy to Elaine Goldsmith, Clerk, detailing additional miscarriage of justice by the Court in violation of her rights to due process and equal protection of the law.

(xxi) Jan. 11, 1985 - Letter from Vincent Flanagan (Asst. Circuit Exec.) to appellant attaching copy of appellees' affidavit made in default (C-xviii and C-xix above).

(xxii) Jan. 20, 1985 - Appellant's letter addressed to Judges Cardamone and Pierce with copy to Judge Oakes attaching thereto copies of the appellant's letter to Ms. Goldsmith dated Dec. 23, 1984 (C-xi above).

(xxiii) Feb. 25, 1985 - Vincent Flanagan letter to appellant refusing appellant an appointment with the Circuit Executive.

(xxiv) Feb. 28, 1985 - Fallacious docket entry that appellant filed a petition for rehearing.

Acts of omission constitute protection of appellees.

D. Additional acts of subversion of the appeal:

1. Elaine B. Goldsmith, Clerk, sent appellant a Scheduling Order dated August 16, 1984 on insufficient notice as a result of which appellant was compelled to submit a motion for extension of time which could have been avoided.

2. A private letter dated Oct. 18, 1984 from Elaine B. Goldsmith, Clerk, to appellees enclosing a copy of appellant's motion for purpose of acknowledging receipt thereof is highly irregular inasmuch as a copy of same was not sent to the appellant demonstrating that the Court is arbitrarily and biasly acting as counsel for the appellees' protection.

3. A private letter dated Nov. 7, 1984 irregularly sent to appellees from Elaine B.

Goldsmith, Clerk, without a co[illegible] to appellant, arbitrarily extending appellees' time to Dec. 7, 1984 to file their defaulted brief and at the same time arbitrarily deferring the dates of oral argument of the appeal from week of Dec. 10, 1984 to Jan. 7, 1985. In her letter to appellees, the Clerk stated that appellant has filed a brief in the Court on Oct. 30, 1984. This was true and it was served on appellees on the same date. The arbitrary extension of time, without notice to the appellant, was prejudicial and subversive in that it was given without appellees having to submit a motion for same.

4. On Dec. 6, 1984, unknown to appellant appellees filed their brief in the Court with a fallacious affidavit of service and without substantial proof that it was served upon the appellant.

5. Due to the lack of knowledge on behalf of appellant as to the facts in Subs. D-3 and D-4 above, and due to the failure of the appellees to file their brief in accordance with the Scheduling Order of Oct. 2, 1984 "that the appellees' brief be filed 30 days after the filing of appellant's brief" on Nov. 29, 1984, appellant filed on Dec. 10, 1984 a motion for dismissal of their defaulted brief with a request for argument to continue to be held on the week of Dec. 10, 1984 in accordance with the Scheduling Order and that the decision be made by a 3-judge panel.

6. While filing her motion on Dec. 10, 1984, appellant examined the Court docket sheet and found many irregular, arbitrary changes and omission made thereon (appellant compared a copy of same with a copy previously xeroxed) during which time

appellant learned about the Court's consent of the submission of appellees' defaulted brief.

7. A private letter was sent to the Clerk of the Court by appellees dated Dec. 12, 1984 requesting a denial of appellant's motion for dismissal of their defaulted brief. They used the irregular, arbitrary letter of Nov. 7, 1984 from Ms. Godlsmith (D-3 above) as the basis for their irregular request which should have been made to the Court by reply affidavit to appellant's motion.

8. On Dec. 17, 1984, without an opinion and with a single endorsement on the motion, Judge Oakes denied appellant's motion to dismiss appellees' brief and did not reply to the request as to the date of oral argument of the appeal.

9. On Dec. 21, 1984, appellant received from Elaine B. Goldsmith, Clerk, another irregular, arbitrary deferment of oral argument originally made for week of Dec. 10, 1984 , then week of Jan. 7, 1985, and finally by firm notice for Jan. 17, 1985, contrary to the Court's own Rule § 34(b). These erratic changes caused appellant to cancel important engagements and holiday plans and made for the purpose of correcting appellees' default in serving their brief upon appellant for the second time. This notice allowed appellant only 5 min. for oral argument, although the Court's Rule § 34(d) states "30 minutes <u>generally allowed</u> by Rule 34(b)" [emphasis added].

10. On Dec. 26, 1984, appellant was compelled to file a motion for reconsideration to inform the 3-judge panel of the violations which have occurred in

contravention of FRAP Rule 31(c) and the Court's Civil Appeals Management Plan 7(b) as well as the injustices made in the processing of the abovementioned documents. Submitted therewith are eight exhibits which included the letters to Hon. Wilfred Feinberg filed Dec. 12, 1984 and to Elaine B. Goldsmith, Clerk, filed Dec. 24, 1984 from appellant (C-viii and C-xi above) which were not entered on the docket sheet.

11. Simultaneously with Subd. D-10 above, appellant also filed on Dec. 26, 1984 a motion to adjourn oral argument until a decision has been rendered on her motion for reconsideration, simultaneously filed, and requested therein 20 minutes for oral argument, which she was also compelled to submit.

12. The acceptance of appellees' brief in default by the Court in contravention of the Scheduling Order and nonreceipt to date of said brief by the appellant from appellees consitutes denial of her right under FRAP Rule 31(a) to file a reply brief and is a miscarriage of justice.

13. The Court received its instructions from appellees' letter (B-vi above) and from their perjured affidavit in opposition (B-vii above) which, according to Ms. Goldsmith on Jan. 7, 1985, had already been distributed to the panel of three judges in the case whose names she refused to divulge to appellant. However, appellant's reply (filed Jan. 7, 1985) to appellees' affidavit in opposition, in which she itemized the violation of regulations in contravention of FRAP, was ignored.

14. In the interim, during recess of the Court, Judge Oakes rendered a decision

(filed Dec. 31, 1984) intentionally denying appellant's motion (D-11 above), and instead of 20 minutes for oral argument which appellant requested, he allowed her only 10 minutes, disregarding that 30 minutes is "generally allowed" by Rule 34(b). His intentional rendering of the decision during recess was to enable him to disregard appellant's simultaneously filed motion for reconsideration (D-10 above) in order to protect appellees' interests. It is appellant's belief that the deferment of the decision on her motion for reconsideration (which was finally made on Jan. 11, 1985) was intentionally made so that she could do nothing about it if denied prior to the date of oral argument on Jan. 17, 1985. This miscarriage of justice necessitated the writing of appellant's letter of Jan. 2, 1985 to the panel of judges (C-xv above) in this case. It is also appellant's belief that her letter was never distributed to the addressees of her letter by the Clerk.

15. The appearance of impropriety by Judge Oakes (Presiding) prompted appellant to file a motion to excuse him from this case on prejudicial grounds and requested that it be decided by a 3-judge panel in her covering letter attached thereto filed on Jan. 3, 1985 (C-xvi above). This request was not complied with and the motion was singularly denied by Judge Oakes' endorsement on the motion on Jan. 14, 1985.

16. On Jan. 4, 1985, in collusion with and for protection of appellees, this Court sent by certified mail (C-xvii(a) above) to the appellant copies of appellees' brief which was filed in default with a perjured affidavit of service. This was highly irregular in that this Court demonstrated its bias by acting as defender of the

appellees as well as using the mail illegally charging it to the public. In essence, payment of my taxes goes to serve my opponents to be used against me. Appellant has kept this mailing intact.

17. This Court has defrauded me of my filing fee in allowing me to believe that it will process my appeal in accordance with the rules of appeal and the rules of this Court. I have stated this in my letter of January 9, 1985 (C-xx above) and, as I suspected would happen (D-14 and D-15 above) appellant's motion for reconsideration was denied on Jan. 11, 1985.

18. It is also strange that while appellant's motion for reconsideration was endorsed on the motion by Judge Oakes and the two other panel judges on Jan. 11, 1985, why appellant's motion (filed Jan. 3, 1985) to vacate the order of Judge James L. Oakes, decided on the same date, was not endorsed by him also, but by someone else using his signature along with the signature of the two other judges. Did he not want to commit himself to an injustice which he created?

19. It is also strange that on the same date as the signing of the two denials of appellant's motion (D-17 and D-18 above) Mr. Vincent Flanagan was able to find a copy of appellees' defaulted affidavit in opposition upon which the two denials were based. Appellant waited on Jan. 7, 1985 in the Clerk's office from approximately 11:45 a.m. to 5:00 p.m. to examine any copy, including the original of the said document, for the date of submission and the date of service upon the appellant. Ms. Goldsmith and Mr. Flanagan, among others, searched everywhere and could not produce a copy (C-xix and C-xxi above). It is appellant's contention

that the perjured affidavit of service attached to said document which was mailed to appellant by Mr. Flanagan (which misleadingly refers to Debby Bock as defendant-appellant pro se when she is actually the plaintiff-appellant pro se) could have been made at any time after December 27, 1985 and the date of receipt by the Court Clerk could have been changed to accommodate the appellees for their default. This has been known to be done, since appellant has worked for other lawyers.

20. It is appellant's contention that the post office stamp appearing as exhibit 2 of the famous appellee's affidavit in opposition (allegedly filed on Dec. 28, 1984) was also obtained by fraud because that stamp does not exist on the indicia placed on the envelope containing their brief (allegedly mailed to appellant on Dec. 6, 1984). The date on the tape on the envelope could have easily been changed to read any date they want. This is a well-known lawyers' trick which was also used in filing their documents in the District Court.

21. At approximately 12:30 p.m. on Feb. 13, 1985, appellant called Judge Feinberg's chambers for clarification of certain rules of the Court. She spoke with Mr. Jeff Malton (Law Clerk to the Judge) who told her to call Ms. Victoria Dalton with whom appellant had spoken to earlier that day. At approximately 3:05 p.m. that day, appellant spoke with Ms. Dalton, Operations Manager of this Court, on the telephone on the subject of appellees' letter of Jan. 4, 1985 (B-vi above). Although this Court's Rule § 27(2)(a) implies that opposition papers must be in the form of an affidavit, Ms. Dalton told appellant that opposition to

a motion does not have to be in the form of an affidavit. And, on the subject of whether appellees were permitted to submit an affidavit in opposition to a motion for reconsideration without permission of the Court which is stated in FRAP Rule 40(a), Ms. Dalton told appellant that the words, "petition for rehearing" in that Rule is not to be interpreted as motion for reconsideration.

22. Between her conversations with Jeff Malton and Victoria Dalton, appellant spoke with Miss Salem (pro se law clerk) on the telephone to ask whether opposition statements to motions are to be made in affidavit form. Ms. Salem quoted FRAP Rule 40(a) which says "No answer to petition. . . unless requested by the Court . . .". Appellant then asked her why her letters are not entered on the docket sheet in conformance with FRAP Rule 45(b). Ms. Salem answered that appellant's letters to the Court are not considered documents and should not be docketed. When appellant pointed out to Ms. Salem that appellees' letters are entered on the docket sheet, she could not reply.

23. A copy of the final order of the Court, filed Feb. 7, 1985 was intentionally detained by the Clerk of this Court from being mailed to appellant in violation of FRAP Rule 45(c).

24. At 1:52 p.m. on Feb. 22, 1985 appellant was in the Clerk's office of the Court to file two motions. One was an emergency motion for extension of time for one day to file the other which was for reconsideration of the Court's order of Feb. 7, 1985. Victoria Dalton refused to have a determination on the motion for extension of

one day made that afternoon. She fallaciously stated that it had to be endorsed by the panel of three judges in this case and that the presiding justice in the case (Judge Oakes) was in Connecticut and therefor it could not be done. Appellant requested Ms. Dalton to give her a letter stating what she said because it sounded ludicrous, but Ms. Dalton refused. However, she emphatically insisted that appellant submit the motion for reconsideration together with the motion for extension of one day. This lead appellant to believe that when Ms. Dalton shows them to Judge Oakes and he decides that he doesn't approve of the contents of the motion for reconsideration he can deny the extension to submit it. Appellant had no choice but to submit the second motion at 3:43 p.m. due to the pressure under which she was placed. The result was that the motion for extension of one day was granted by Judge Oakes who singularly endorsed the motion, without the signature of three judges. Therefore, appellant's suspicions were correct that Ms. Dalton was trying to subvert her motion for reconsideration.

25. A decision filed April 3, 1985 on a petition for rehearing was mailed to appellant on April 11, 1985 by Ms. Dalton in violation of FRAP Rule 45(c). Appellant has not acted on this decision due to the fact that she never filed a "petition for rehearing" as the order states.

26. To date, appellant has received no decision to her motion for reconsideration submitted on Feb. 22, 1985 the contents of which spell out some of the violations of FRAP contained herein.

27. Appellant has witnessed considerable

callousness on the part of some pro se clerks who refuse to assist and/or impolitely hang up on her. Although it may be that some pro se litigants are bright and intelligent, it does not say that they are capable of knowing how to interpret certain rules of the Court or where to find them, since the Court does not suppy the rules to the pro se litigants. This places an added burden on the pro se litigants, who have to submit documents on time, to fend for themselves through myriads of books which are often unavailable to them or are hard to understand.

28. Tapes that are made during oral argument are not audible especially when several people, i.e. the Judges, are speaking in unison. Therefore, the nervous parties who miss some of the conversation during argument are at a disadvantage when they return to listen to the tape. However, at this point appellant wants to state that she cannot praise the Court Clerk, Mr. Kevin Glavin, enough for his extremely patient and helpful assistance to hear the tape. He has been most courteous and kind in his realization of the physical pains she was undergoing at that time.

In conclusion, appellant states that these acts of gross negligence and fraud in processing her appeal in this Court, as was similarly done in the District Court whose order she appealed to this Court, do not serve justice in the final and decisive stages and the public interest suffers. That the enumerated violations of the Federal Rules of Appellate Procedure herinabove described has caused the appellant unnecessary

aggravation and anxiety which resulted in deterioration of her health as well as expediture of unnecessary costs.

/S/
DEBBY BOCK

Sworn to before me this
20th day of May, 1985.

/S/
ADELE DAY
Notary Public, State of New York
No. 24-4782901
Qualified in Kings County
Commission Expires March 30, 1987

[STAMP]
Received
1985 MAY 22 AM 11:10
U.S. COURT OF APPEALS
SECOND CIRCUIT

70 Dahill Road, #1-G
Brooklyn, NY 11218

The Honorable William Foley
Director
Administrative Office of the
United States Courts
Vermont Avenue, N.W.
Washington, D.C. 20544

Dear Sir:

Enclosed herewith please find a copy of my letter dated May 16, 1985 attached thereto my affidavit dated May 20, 1985 which I sent to Hon. Wilfred Feinberg, Chief Judge of the U.S. Court of Appeals, Second Circuit, as well as to Hon. Steven Flanders, Circuit Executive of the United States Courts, Judicial Council, Second Circuit, which is self-explanatory.

It is incumbent upon your office to investigate and correct this wrong at the earliest day possible.

Please acknowledge receipt of this letter. I shall expect to hear from you soon as to any actions you will take.

Thank you for your kind attention to this matter.

Very truly yours,

/S/
Debby Bock

DB:nsb
Enc.

EXHIBIT F

[Letterhead]

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
United States Courthouse
Foley Square
New York 10007

ELAINE B. GOLDSMITH
Clerk

June 6, 1985

Ms. Debby Bock
70 Dahill Road #1-G
Brooklyn, NY 11218

Re: Bock v. New York, 84-7689

Dear Ms. Bock:

Chief Judge Feinberg has referred your letter of May 16, 1985, to me for a reply.

Your affidavit reiterates the issues raised in your previous correspondence. Nevertheless, I have reviewed the file and find that the papers were handled in accordance with normal operating procedures which comply with the Federal Rules of Appellate Procedure.

Very truly yours,

/S/
Elaine B. Goldsmith
Clerk

EBG:cbs

EXHIBIT G

[STAMP]
RECEIVED
1985 June 12 PM 12:08
U.S. COURT OF APPEALS
SECOND CIRCUIT

70 Dahill Road, #1-G
Brooklyn, N.Y. 11218

June 11, 1985

PERSONAL AND CONFIDENTIAL

Hon. Wilfred Feinberg
Chief Judge, Second Circuit
United States Courthouse
Foley Square
New York, N.Y. 10007

Re: Bock v. New York State et al.
Docket No. 84-7689

Dear Judge Feinberg:

Pursuant to Rule §0.24 of the Rules of the Second Circuit, I am making my complaint herewith with respect to the conduct of Judge Thomas C. Platt of the District Court, Eastern District of New York, as well as the conduct of Judge James L. Oakes of the United States Court of Appeals, Second Circuit, for their bias and failure to enforce the laws.

In re Judge Thomas C. Platt:

All my allegations against him are stated in my brief of 50 pages together with attached appendix of 26 exhibits which I submitted in the United States Court of Appeals, Second Circuit, under the above captioned docket number. Since

EXHIBIT H

I have filed 10 copies of the brief in this Court, Your Honor can obtain one from the Clerk's office for examination.

In re Judge James L. Oakes (Presiding Justice:

1. Judge Oakes of this Court, together with the remaining two panel judges, refused to give any thought to the arguments in my brief with respect to Judge Platt's violations of the Federal Rules of Civil Procedure when they rendered their final order of February 7, 1985. The panel's decision was purposefully wrought with distorted facts in order to make the determination to which they arrived at. For example, they refused to recognize that the Workers' Compensation Board decision of January 9, 1981, referred to at page 3 of their decision, is a "final appealable order" [emphasis added]. Judge Platt, as well as Judge Oakes and the remaining panel have denied me my constitutional right to a trial by jury against the State of New York et al. who have denied me my right to appeal the Board's decision in accordance with the laws of that State and the United States Constitution. Their aim is to subvert my efforts to expose the extrinsic fraud which exists in the State Courts. I have filed a motion on February 22, 1985 for reconsideration of this panel's final order of February 7, 1985 in which I point out the erroneous information and facts as well as lack of knowledge by which they rendered their decision. Four months have now passed without a decision to date on my motion.

2. I was required to file on February 22, 1985, a motion for extension of time of one day. I was also required to file, on September 5, 1984, in accordance with Federal Rule of Appellate Procedure ("FRAP") 27 and Second Circuit § 27, a motion for extension of time due to the dereliction of duty of the Clerk of this Court.

This was documented in my letter, filed December 12, 1984, to Your Honor which can be found in the last large paragraph at page 3. However, defendants-appellees were prejudicially and arbitrarily permitted by Judge Oakes to submit their brief in default and in violation of this Court's Civil Appeals Management Plan ("CAMP") 4(b) and FRAP Rule 47, without having to make the required motion for extension of time or even a request therefor. In fact, I was never notified by the Court of the said arbitrary extension of time given to the defendants-appellees, which was also documented in my letter to Your Honor.

Additionally, the motion which I filed on December 10, 1984 and referred to in my letter to you, was for dismissal of defendants' brief pursuant to FRAP Rule 47, CAMP 7(b), and Second Circuit Rule § 38 which I requested (by handwritten note filed with my motion) to be judged by a panel of three judges. My request was ignored and my motion was singularly denied by Judge Oakes (filed December 17, 1984) who refused to enforce the laws.

To date, I have not received defendants-appellees' brief from them. However, by Judge Oakes' prejudicial instructions my adversaries' brief was mailed to me by certified mail by the Clerk of this Court. I found out about it from the receipt attached to the docket sheet upon examination on December 10, 1984. I have maintained the mailing envelope and its contents intact which I received on January 7, 1985 (10 days before oral argument). These acts of bias have denied me my right to reply to their brief in accordance with FRAP Rule 31(a).

3. My subsequent motion for reconsideration with Exhibits A-I, filed December 26, 1984, pointed out the violations of the aforementioned acts pursuant to FRAP Rule 31(c) and CAMP 7(b),

and my letter to the panel filed January 3, 1985 reiterating the further miscarriage of justice by Judge Oakes in his denial of my motion filed December 31, 1984 did not affect the decision which was again denied on January 11, 1985. The letter denial evolved from a private letter with instructions from the defendants-appellees filed January 4, 1985 which was directed to Judge Oakes who in turn marked the pertinent part for the attention of the other two panel judges.

4. Judge Oakes' appearance of impropriety prompted me to file a motion excusing him from this case on prejudicial grounds and requested, by letter filed with my motion on January 3, 1985, that it be decided by a 3-judge panel. However, Judge Oakes ignored my request and singularly denied my motion, filed January 14, 1985.

5. In violation of FRAP Rule 34(e), at oral argument of the case on January 17, 1985, Judge Oakes prejudicially permitted delay of the hearing of my case for approximately 50 minutes due to the defense attorney's lateness to appear in court. However, Judge Oakes denied my motion for 20 minutes of oral argument of my case, in his decision filed December 31, 1984, despite the fact that Second Circuit Rule § 34(d) states ". . . for argument additional to the 30 minutes generally allowed" [emphasis added]. Consideration must be given to the fact that I am a pro se litigant without prior knowledge of such proceedings. In spite of this fact, I was given 5 minutes to argue my case and then, because of my aforesaid motion, Judge Oakes "generously" extended it to 10 minutes. Needless to say, that this denial of time deprived me of my right to properly present my case and submit evidence on the record. But the waiting time of 50 minutes for the defense attorney to arrive is prejudicially overlooked by him.

6. The primary arguments raised by defendants-appellees on res judicata and collateral review were properly dismissed by Judge Platt of the District Court. However, I have pointed out to the panel of this Court that defendants-appellees have failed to submit the full record in the District Court of the prior proceedings in the State Courts and, therefore, the final decision rendered by Judge Platt was made without full knowledge of the case. Without a hearing on the merits and without the full record of the State courts' proceedings, the panel of this Court also could not render a just and proper decision. Judge Platt and the panel of this Court are derelict in their duty in dismissing my complaint and/or my prior petition (Rec. Ex. 1) in the Supreme Court of the State of New York without an answer as a matter of law.

Judge Platt and the panel of this Court, presided by Judge Oakes, have rendered arbitrary, prejudicial, capricious and biased decisions which are not in conformance with the laws, and knowingly disregarded the contempt of the Supreme Court order by the defendants-appellees to answer my petition which these judges failed to enforce.

In addition to my aforementioned letter to Your Honor filed December 12, 1985, I have written other letters to you filed January 10, 1985 and May 22, 1985 documenting at length many other procedural violations made in this Court. For these reasons there is an "avalanche of cases coming to the Supreme Court [United States]" as stated to the American Bar Association by Chief Justice Warren E. Burger (ABA Journal, The Lawyer's Magazine, April 1985 at page 88). An article written by David O. Stewart, Esq. (ABA Journal, The Lawyer's Magazine, February, 1985 at page 110) also depicts the dereliction of duty by the Courts to read and have knowledge of the cases presented to them before making

decisions which are not retractable or cause additional unnecessary costs to pursue in an upper court. This dereliction of duty has cost the taxpayers a great deal of money and injustice to the litigant as well as a violation of the United States Constitution.

The acts committed by the Judges complained of herein are a violation of my rights to due process of law.

Very truly yours

/S/
Debby Bock

DELIVERED BY HAND

[STAMP]
RECEIVED
1985 Jun 12 PM 12:07
U.S. COURT OF APPEALS
SECOND CIRCUIT

State of NEW YORK

County of KINGS

DEBBY BOCK (Affiant), having first been duly sworn, deposes and says that the matters stated in the foregoing complaint* are true to the affiant's knowledge except such matters as are stated to be upon information and belief and as to those matters affiant believes them to be true.

* dated June 11, 1985 and submitted to the Court on June 12, 1985

Subcribed and sworn to before me this 21st day of June, 1985,

/S/ Maryann Fitzpatrick
Notary Public in and for the
County of Kings, State of New York

My commission expires March 30, 1987

[STAMP]
MARYANN FITZPATRICK
Notary Public, State of New York
No. 24-01F14779282
Qualified in Kings County
Commission Expires March 30, 1987

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------x

DEBBY BOCK

Plaintiff,

-against-

CV 83-3997
MEMORANDUM AND ORDER
June 18, 1984

THE STATE OF NEW YORK, ROBERT STEINGUT, Chairman, and ILENE J. SLATER, SEYMOUR POSNER and HENRY M. CHRISTMAN, Commissioners, Individually and as Members of the WORKERS' COMPENSATION BOARD of the State of New York, and the ATTORNEY GENE AL of the State of New York,

DEFENDANTS
----------x

Platt, D.J.

In this action, the above named defendants move to dismiss the plaintiff's complaint on the grounds that: (1) res judicata bars the prosecution of this action; (2) this action constitutes an impermissible collateral "appeal" from New York State Court decisions; (3) the allegations of the complaint fail to state a claim upon which relief may be based; (4) the defendants possess official

EXHIBIT I

immunity from liability from damages; and (5) only the New York Appellate Division, Third Department, has jurisdiction to review this matter. The plaintiff, Mrs. Debby Bock, who appears pro se, opposes all of the defendant's grounds for dismissal.